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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,296	12/08/2003	Steve W. Smock	1007-0584	2191

7590

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

MC

Office Action Summary

Application No.

10/730,296

Applicant(s)

SMOCK ET AL.

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13, 16-21, 23 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 11, 13, 16, 17, 21, 23 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on August 18, 2005.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. **Claims 11,13,16,17,21,23,26, and 27 are provisionally rejected** under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-10 of copending Application No. 10/730475. Although the

conflicting claims are not identical, they are not patentably distinct from each other because:

Claims 11 and 21 of the instant application recites an oven door lock mechanism comprising a mounting frame; a latch mounted to the plate and including a follower surface; an actuator pin that engages the follower surface in order to move the latch; a blocker that interferes with the latch rotation; a motor to move the blocker between a blocking position, wherein the latch is in the latch position, and an unblocking position, wherein the latch is free to move; and a lever connected to the latch by means of a link.

Claims 13 and 23 of the instant application, which depends from claim 11, recites that the blocker would rotate 60° or less to perform either position.

Claims 16 and 26 of the instant application, which depends from claim 11, recites that the blocker moves the lever.

Claims 17 and 27 of the instant application recites that the lever will actuate a switch for controlling a motor drive circuit.

Claim 8 of the '475 application recites an oven door lock mechanism comprising a latch coupled to a frame and including a follower surface; an actuator pin that engages the follower surface in order to move the latch; a cam that interferes with the latch rotation; a motor to rotate the cam 60° or less; and a lever connected to the latch by means of a link.

Claim 9 of the '475 application recites that the lever will actuate a switch for controlling a motor drive circuit.

Claim 10 of the '475 application recites that the latch is adjacent the front of the oven and the lever and switch at the rear of the oven.

Claims 11,13,21, and 23 of the instant application and claim 8 of the '475 application present differences like the word "blocker" for "cam" and like the word "mounting plate" for "frame". However, both members perform the same function with respect to the latch.

Also, claims 11,16,21, and 26 requires that the motor would move the cam so as to impart an additional movement to the latch so as to pull the door closer to the frame. Although, claim 8 of the '475 application does not recites this limitation, the cam described in claim 8 of the '475 application is capable of perform this limitation since the cam 568 would move the lever member 462 so as to pull the latch and therefore move the door closer to the frame.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. **Claims 28-30 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 recites the limitation "a lever mounted to the rear mounting plate portion for movement relative thereto and a link coupling the lever to the latch". It is unclear if

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this lever is the same or a different lever as the one claimed on claim 21 line 23. In order to continue with the examination, claims 28-30 would not be considered. Appropriate correction and explanation is required.

Allowable Subject Matter

6. **Claims 18-20 are allowed.**

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

CC

Carlos Lugo
AU 3676


BRIAN E. GLESSNER
PRIMARY EXAMINER

September 1, 2005.